

L39QmosC

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

-----x

3 UNITED STATES OF AMERICA,

4 v.

21 CR 00092 (AJN)  
Remote Skype Conference

5 YURY MOSHA, ULADZIMIR DANSKOI,  
6 JULIA GREENBERG and  
ALEKSEI KMIT

7 Defendants.

8 -----x

9 New York, N.Y.  
10 March 9, 2021  
12:00 p.m.

11 Before:

12 HON. ALISON J. NATHAN,

13 District Judge

14  
15 APPEARANCES

16 AUDREY STRAUSS  
17 United States Attorney for the  
Southern District of New York  
18 JONATHAN REBOLD  
DAVID R. FELTON  
19 Assistant United States Attorney

20 LAW OFFICE OF VADIM A. GLOZMAN  
Attorney for Defendant Mosha  
21 VADIM A. GLOZMAN

22 SHARIFOV and ASSOCIATES PLLC  
Attorney for Defendant Danskoi  
23 ROVSHAN C. SHARIFOV

1 APPEARANCES CONTINUED:

2 SHAROVA LAW FIRM

Attorney for Defendant Greenberg

3 CHARLES W. KASER

4  
5 STEPHEN TURANO

Attorney for Defendant Kmit

6  
7 ALSO PRESENT: RUSSELL LAMPIER, FBI

YANA AGOUREV, Interpreter (Russian)

8 JOSHUA ROTHMAN, USPS (SDNY)

(The Judge and all parties appearing via Skype)

THE COURT: Ms. Williams, please call the case.

DEPUTY CLERK: In the case of United States against Mosha, et al., 21 CR 92. This is a reminder that this is a public proceeding. Members of the public and press are able to access the proceeding with a public dial-in number. All participants are reminded that any recording or rebroadcasting of this proceeding is strictly prohibited.

Counsel, please state your name for the record starting with the government.

MR. REBOLD: Good morning, Judge Nathan. This is Jonathan Rebold for the government. I'm also joined by David Felton, who is also with my office, and I understand that Special Agent Russell Lampier with the Federal Bureau of Investigation is also on this call. And good morning also to Mr. Glozman.

THE COURT: Good morning everyone. Let me take appearances of counsel beginning with counsel for Mr. Mosha.

MR. GLOZMAN: Good morning, your Honor. Vadim Glozman on behalf of Mr. Mosha, who is present on Skype, and you can see him in the video.

THE COURT: Good morning to you both.

And on behalf of defendant Danskoi.

MR. SHARIFOV: Good morning, your Honor. Rovshan Sharifov, counsel for Mr. Danskoi, who is also present on Skype

1 next to me in my office. I don't know if you can see him, your  
2 Honor.

3 THE COURT: I can. Thank you. It's tipped over into  
4 afternoon. Good afternoon to you both.

5 And counsel for Ms. Greenberg.

6 MR. KASER: Yes. Good morning-afternoon, your Honor.  
7 I'm not sure which way the clock is going. I'm here for  
8 Ms. Greenberg. I'm not sure if her camera is on. I can't see  
9 everyone. I can just see you right now.

10 THE COURT: Good morning to you, Mr. Kaser. And  
11 Ms. Greenberg, I have a block for you, but I don't see you.  
12 Are you able to see and hear me OK?

13 DEFENDANT GREENBERG: I do see and hear you, your  
14 Honor.

15 THE COURT: Thank you. Good morning to you.

16 And for defendant Kmit.

17 MR. TURANO: Good afternoon, your Honor. Stephen  
18 Turano on behalf of Aleksei Kmit, who I know is participating  
19 by telephone line. I don't know if he is on Skype.

20 THE COURT: Mr. Kmit, are you able to hear me?

21 Ms. Williams?

22 DEPUTY CLERK: Yes, Judge, I'm here.

23 THE COURT: We don't seem to have at least the  
24 interpreter for Mr. Kmit. I'm not hearing any response.

25 DEPUTY CLERK: It should be Ms. Yana. She is on the

1 line. I see her on the line. Her number is appearing.

2 Ms. Yana?

3 THE INTERPRETER: Your Honor, this is Yana Agoureev,  
4 the Russian Interpreter. I do not have Mr. Kmit on my  
5 interpretation line. I just have Mr. Mosha.

6 THE COURT: OK. So, Ms. Williams, we don't have all  
7 the defendants.

8 DEPUTY CLERK: Hold on, please.

9 THE COURT: What I'm going to suggest is that we  
10 proceed with the other defendants since everybody has been at  
11 this a long time, and despite being a year into the pandemic,  
12 we continue to have these difficulties. So my suggestion is  
13 that we proceed with who we have, and I will have a separate  
14 proceeding with Mr. Kmit.

15 Let me just confirm. So counsel for Mr. Kmit is  
16 Mr. Turano, who I do have. Mr. Turano, is that acceptable?

17 MR. TURANO: Yes, your Honor. And I have  
18 independently communicated with my client by text, and he must  
19 have gotten knocked off. He said he is going to try calling  
20 back.

21 THE COURT: We will try that. If that fails, we will  
22 proceed with the other defendants.

23 MR. TURANO: All right. I think he's indicated he's  
24 on now, by the way.

25 THE COURT: Mr. Kmit, are you in touch with the

1 interpreter?

2 THE INTERPRETER: Your Honor, this is the Russian  
3 interpreter, and I have Mr. Mosha and Mr. Donskoi on the  
4 interpretation line, but I do not have Mr. Kmit.

5 THE COURT: All right. Then, Mr. Turano, let me work  
6 with the other defendants, and we will move -- we will work  
7 with you and Mr. Kmit immediately afterwards, but I think we  
8 should proceed, and you're welcome to stay and leave to speak  
9 to him as you need to do, Mr. Turano.

10 MR. TURANO: Thank you, your Honor.

11 THE COURT: Thank you.

12 And our Russian interpreter, could I ask you to please  
13 put your name on the record?

14 THE INTERPRETER: Yana Agoureev.

15 THE COURT: Thank you, Ms. Agoureev.

16 We have our court reporter on the line?

17 (Replies)

18 THE COURT: Good afternoon, Alena. Thank you very  
19 much. Sorry for the delay.

20 I am Judge Nathan. I am the District Court Judge who  
21 will be handling this matter going forward. A few preliminary  
22 matters. We are in the middle of the COVID-19 pandemic, so I  
23 am attempting to conduct this proceeding remotely pursuant to  
24 the authority provided by Section 15002 of the CARES Act and  
25 the standing orders issued by our Chief Judge pursuant to that

1 Act. We are trying to proceed by videoconference using the  
2 Skype for Business platform. We do have a Russian language  
3 interpreter on separate audio lines with the defendants so that  
4 she can interpret simultaneously for them in addition to the  
5 Skype video connection.

6 I am going to ask each of the defendants if they can  
7 see me, hear me and understand -- hear the interpreter and  
8 understand the interpreter.

9 So, beginning with Mr. Mosha, are you able to see and  
10 hear and understand the interpretation?

11 DEFENDANT MOSHA: Yes, I do.

12 THE COURT: Thank you.

13 Mr. Danskoi, same question.

14 DEFENDANT DANSKOI: Yes, I can hear, see and  
15 understand well.

16 THE COURT: Terrific. Thank you.

17 And, obviously, Ms. Greenberg, you don't need an  
18 interpreter, and we don't have Mr. Kmit. Unless, Mr. Kmit,  
19 have you joined? No. OK, so we will proceed as indicated.

20 But let me ask Ms. Greenberg, are you able to see and  
21 hear me OK?

22 DEFENDANT GREENBERG: Yes, your Honor.

23 THE COURT: Thank you.

24 For all of the defendants, if at any point during the  
25 proceeding you run into any difficulty with the video or the

1 audio or the interpretation, let me know right away. We will  
2 stop and address that before proceeding any further.

3 I'm going to talk about waiver of physical appearance  
4 forms and that process. We will begin with Mr. Mosha's  
5 counsel, and that is Mr. Glozman?

6 MR. GLOZMAN: Yes, your Honor.

7 THE COURT: Mr. Glozman, can you talk about the  
8 process by which you discussed the issue of the right to be  
9 present for this proceeding with Mr. Mosha, his signature on  
10 the waiver of physical presence form -- which we did receive,  
11 thank you -- and whether he continues to waive his right to be  
12 physically present today.

13 MR. GLOZMAN: Yes, your Honor, I've discussed the  
14 issues surrounding the pandemic and the ability to conduct  
15 in-person hearings. I've explained to Mr. Mosha he has the  
16 right to waive the in-person appearance and sign the waiver  
17 form, which I explained to him. He consents to proceeding by  
18 video and by telephone for purposes of safety efficiency. And  
19 that is his true and accurate signature on the waiver forms.

20 THE COURT: Thank you, Mr. Glozman.

21 And, Mr. Mosha, is what your attorney stated an  
22 accurate representation of your understanding of the issue and  
23 your willingness to proceed remotely today by waiving physical  
24 presence?

25 DEFENDANT MOSHA: Yes.



1 THE COURT: Great. Thank you.

2 Turning to counsel for Mr. Danskoi, that's  
3 Mr. Sharifov.

4 MR. SHARIFOV: Yes, your Honor.

5 THE COURT: Mr. Sharifov, same questions. Could you  
6 describe the opportunity to discuss the issue with your client?

7 MR. SHARIFOV: Sure, Judge. I discussed with my  
8 client the waiver of right to be present at the criminal  
9 proceedings in person and over the phone, and he understood and  
10 waived it. He continues to waive that, and he's here present,  
11 Judge, also to discuss today as well.

12 THE COURT: Thank you, Mr. Sharifov.

13 Mr. Danskoi, is what your attorney stated an accurate  
14 description of your understanding and your wish to waive your  
15 right to be physically present?

16 DEFENDANT DANSKOI: Yes. My attorney actually  
17 explained to me that I have a constitutional right to attend an  
18 in-person hearing, but because of COVID-19, I waived that  
19 right, and I signed my waiver and consent form.

20 THE COURT: Thank you very much.

21 And the attorney for Ms. Greenberg, Mr. Kaser, same  
22 question.

23 MR. KASER: Yes. Thank you, your Honor.

24 I did speak to my client about her constitutional  
25 right to appear in person. She is aware that she can waive

1 that right due to safety concerns of the pandemic, and she did.  
2 That is her signature on the document, it's an electronic  
3 signature, so she is waiving her right to appear.

4 THE COURT: Thank you.

5 Ms. Greenberg, is that accurate?

6 DEFENDANT GREENBERG: That's accurate, your Honor.

7 THE COURT: I just note, I do need to do a presentment  
8 today, Ms. Greenberg, informing you of your rights. In  
9 addition to the arraignment and conference waiver, do you also  
10 waive your right to be physically present for the presentment  
11 today?

12 DEFENDANT GREENBERG: So waived, your Honor.

13 THE COURT: Say it again?

14 DEFENDANT GREENBERG: So waived. I do waive it.

15 THE COURT: Thank you so much.

16 So, with that, counsel, I am prepared to find that the  
17 three defendants that I've just conversed with knowingly and  
18 voluntarily waive the right to be physically present for  
19 today's proceeding. I am also prepared to find that today's  
20 proceeding cannot be further delayed without serious harm to  
21 the interest of justice because both in the individual case and  
22 in the aggregate we must keep our criminal cases moving forward  
23 despite the prolonged safety issues presented by the pandemic.  
24 New cases coming in need to have an opportunity for the  
25 defendants and counsel to meet with me, to get discovery

1 produced, to get a schedule for the case and to keep cases  
2 moving forward in order to effectuate defendants' speedy trial  
3 rights.

4 So let me just ask if there are any objections to  
5 those anticipated findings. Mr. Glozman?

6 MR. GLOZMAN: No objections, your Honor.

7 THE COURT: Mr. Sharifov?

8 MR. SHARIFOV: No objection, your Honor.

9 THE COURT: Mr. Kaser?

10 MR. KASER: I don't have any objection. However, I  
11 think when we select a trial date, I'm inclined to ask you to  
12 put my two cents in.

13 THE COURT: Yes. No, I'm just talking about --

14 MR. KASER: I just didn't want to surprise anyone.

15 THE COURT: I understand. Let me just ask. I see  
16 you, Mr. Turano. Give me one moment.

17 Mr. Rebold?

18 MR. REBOLD: Yes, your Honor, we have no objection.

19 THE COURT: I do make those findings.

20 Mr. Turano, I see you raising your hand.

21 MR. TURANO: Your Honor, I think Mr. Kmit is on with  
22 the interpreter, at least that's what he's texted me. He has  
23 heard the whole proceeding all along so we can pick up there if  
24 that's the case.

25 THE COURT: OK. Mr. Kmit, are you able to hear the

1 proceeding now?

2 MR. KMIT: Yes, I'm here. I can hear everything.

3 THE COURT: Very well, and you have been able to hear  
4 what I just discussed with the other defendants regarding  
5 waiver of their right to be physically present?

6 THE INTERPRETER: Your Honor, this is the interpreter.  
7 I think Mr. Kmit is on the main line, and he is expecting  
8 interpretation on the main line.

9 MR. TURANO: Judge, I've given him the line. I will  
10 just step back and communicate with him then. I don't know  
11 why. OK.

12 THE COURT: We will continue to proceed with the three  
13 defendants, and, Mr. Turano, I will pick up with you and  
14 Mr. Kmit at the end.

15 MR. TURANO: Yes, Judge.

16 THE COURT: With those findings in place, we can  
17 proceed to the next preliminary matter, which is largely  
18 addressed to Mr. Rebold.

19 Pursuant to Federal Rules of Criminal Procedure 5(f),  
20 I remind the prosecution of its obligation under *Brady v.*  
21 *Maryland* and related cases to disclose to the defense all  
22 information, whether admissible or not, that is favorable to  
23 the defendant, material either to guilt or to punishment and  
24 known to the prosecution.

25 The prosecution must make good faith efforts to

1 disclose such information to the defense as soon as reasonably  
2 possible. Failure to do so may result in any number of  
3 consequences, including a continuance, sanctions, dismissal or  
4 a vacatur of conviction. I will enter a written order  
5 describing more fully these obligations and the possible  
6 consequences of failing to meet them, and I do direct the  
7 prosecution to review and comply with that order.

8 Mr. Rebold, can you confirm that you understand your  
9 obligations and will fulfill them in this case?

10 MR. REBOLD: Yes, your Honor, we both understand our  
11 obligations, and we will fulfill them.

12 THE COURT: Thank you. I am going to turn now,  
13 Ms. Greenberg, to the presentment of your advice of rights.  
14 It's important for me to advise you of these rights at your  
15 first proceeding in the district.

16 You have the right to remain silent. You're not  
17 required to make any statements. Anything that you do or say  
18 can be used against you. Even if you've made any statements to  
19 the authorities, you need not make any further statements. Do  
20 you understand these rights, Ms. Greenberg?

21 DEFENDANT GREENBERG: Yes, your Honor.

22 THE COURT: You have the right to be represented by  
23 counsel during this court proceeding, any future court  
24 proceedings, and any time you're questioned by authorities. If  
25 you can't afford an attorney, I will appoint an attorney to

1 represent you. Do you understand these rights?

2 DEFENDANT GREENBERG: Yes, your Honor.

3 THE COURT: Thank you. We will turn to the  
4 arraignment next. I am going to ask counsel for each of the  
5 defendants to indicate, and we'll begin with Mr. Glozman on  
6 behalf of Mr. Mosha.

7 Mr. Glozman, has your client received a copy of the  
8 indictment?

9 MR. GLOZMAN: Yes, your Honor, he's received a copy of  
10 the indictment. I've gone over it in the Russian language, so  
11 he understood it and will waive a formal reading and enter a  
12 plea of not guilty.

13 THE COURT: Thank you. I will enter a plea of not  
14 guilty on behalf of Mr. Mosha.

15 Mr. Sharifov, same questions.

16 MR. SHARIFOV: Yes, your Honor, I did give a copy of  
17 the indictment to my client, Mr. Danskoi, and I pled -- I will  
18 knot not guilty on his behalf and will waive the reading.

19 THE COURT: Thank you. Not guilty on behalf of  
20 Mr. Danskoi.

21 Mr. Kaser.

22 MR. KASER: Yes. Thank you, Judge. My client has a  
23 received a copy of the indictment. We waive a public reading  
24 and enter a plea of not guilty.

25 THE COURT: All right. A plea of not guilty will be

1 entered on behalf of Ms. Greenberg.

2 With that, we turn to the scheduling proceeding, and I  
3 do thank counsel for meeting in advance and trying to come to  
4 agreement on a schedule.

5 Actually, before we turn to the specifics of that,  
6 Mr. Rebold, I will ask you to give a brief summary of the  
7 charges and describe the categories of discovery that will be  
8 produced in the case. Let's begin there, please.

9 MR. REBOLD: Yes, your Honor.

10 So the case involves an investigation into both a  
11 conspiracy to commit immigration fraud and a conspiracy to  
12 defraud the United States of America. It focuses primarily on  
13 the commission of asylum fraud, at least at this stage,  
14 although there are additional legs to the investigation that I  
15 can touch on briefly, your Honor.

16 Based on information that a company called Russian  
17 America, which was led by defendants Yury Mosha and Uladzimir  
18 Danskoi, who respectively headed offices in Manhattan and  
19 Brooklyn. Based on information that those individuals and that  
20 company was engaged in asylum fraud, among other things, three  
21 different confidential sources working with the government and  
22 at the direction of the FBI at the direction of Department of  
23 Homeland Security engaged in a series of recorded in-person  
24 meetings, telephonic communications, emails and other  
25 communications through such messaging applications as What's

1 App with each of the charged defendants to investigate the  
2 veracity of these claims of immigration fraud.

3 Among other things, Russian America and its  
4 associates, including the individuals charged in this case,  
5 knowingly and willfully helped the sources attempt to and in  
6 some cases push through applications for asylum based on  
7 fraudulent bases. As laid out in the indictment, a pair of  
8 confidential sources met at the Manhattan office which was  
9 headed by Yury Mosha, and Mr. Mosha suggested, among other  
10 things, that these individuals seek asylum by speaking out --  
11 by creating blogs that were critical of their native government  
12 as a basis to later argue that it would be unsafe to return to  
13 their home countries.

14 By way of background, Russian America primarily serves  
15 natives of Russia and the commonwealth of the independent  
16 states, such as Ukraine and Uzbekistan, which are relevant for  
17 the indictment.

18 So, Mr. Mosha and others at the Russian America  
19 Manhattan office advised these sources to create logs that were  
20 critical of their home government so that they could argue that  
21 it was unsafe to return to those governments. They did so  
22 understanding that these sources had lacked the technical  
23 ability to maintain blogs, the journalistic ability, lacked the  
24 political knowledge and other topical knowledge to do this,  
25 and, among other things, Mr. Mosha and others, such as Alexsei



1 Kmit, who worked as a paralegal at Russian America put these  
2 sources in touch with defendant Tymur Shcherbyna, who is at  
3 large we believe in Ukraine which does not extradite, so that  
4 Shcherbyna could ghost write blogs on behalf of these sources.  
5 And it was clear from the investigation that this was not the  
6 first time that Mr. Shcherbyna did this on behalf of Russian  
7 America clients. Thereafter, Shcherbyna agreed for both  
8 sources to establish and begin maintaining blogs that were  
9 critical of the sources' respective purported home governments  
10 of Ukraine and, I believe, Uzbekistan.

11 In the meantime, Mr. Mosha put the sources in touch  
12 with Kateryna Lysyuchenko, who is a Ukrainian national based in  
13 Italy to help these individuals craft asylum affidavits, which  
14 are personal statements that are optional but traditionally  
15 appended to individuals' Form I589 asylum applications and are  
16 usually there to provide a purported personal history, history  
17 of persecution and basis for asylum.

18 Ms. Lysyuchenko, among other things, with the first  
19 source at least, provided him with multiple templates of other  
20 people's asylum affidavits, sort of an insert-your-name-here  
21 type template with various claims of persecution, including for  
22 people who wrote blogs critical of their government so that  
23 they could be used -- these templates could be used to craft an  
24 asylum affidavit that fit that applicant.

25 Ms. Lysyuchenko and attorneys with Russian America

1 also advised the first source on ways to change -- the source  
2 needed to change his affidavit so that it alleged persecution  
3 where it did not actually exist. And over the course of the  
4 investigation, the source's draft application and affidavit  
5 changed materially in a number of ways going from claims that  
6 he was never persecuted in his own country to alleging things  
7 like being beaten to the point of unconsciousness in his own  
8 country based on his nationality.

9 Mr. Mosha also put that source in touch with Julia  
10 Greenberg to represent the source during his asylum interview  
11 with a United States Citizenship and Immigration Services, or  
12 USCIS, asylum officer. Ms. Greenberg was explicitly made aware  
13 in recorded conversations that CS-1 had never been persecuted  
14 in his home country; that CS-1 did not write his own blog; that  
15 it was ghost written; that CS-1 only agreed with Mosha to write  
16 a blog as a basis to seek asylum, not because he had any  
17 independent motivation to do so; and Ms. Greenberg and others  
18 prepared CS-1, the first source, to lie under oath at his  
19 proceeding. She represented him at his asylum proceeding, and  
20 when an asylum officer expressed doubt about the veracity of  
21 the source's claims of historical persecution, Ms. Greenberg,  
22 knowing that he was never actually assaulted in Ukraine, cited  
23 that instance as an example of past persecution warranting  
24 asylum.

25 The investigation also involved another source who

1 worked with Uladzimir Danskoi, who ran the Brooklyn office of  
2 Brooklyn of Russian America. That individual discussed various  
3 ways in which they could fabricate a claim of asylum, with  
4 Mr. Danskoi understanding that the source had no actual  
5 legitimate basis to seek asylum. And after, Danskoi suggested  
6 a number of ways to seek asylum, including by nationality,  
7 persecution based on nationality, Mr. Danskoi knowingly agreed  
8 to help the source instead falsely claim that he was a gay male  
9 who would be persecuted if he returned to his home country of  
10 Ukraine.

11 Mr. Danskoi made a number of incriminating statements  
12 on recorded conversations about ways in which to frame the  
13 narrative, especially since he understood the source didn't  
14 actually have historical corroboration or a claim of  
15 persecution in his home country.

16 Mr. Danskoi also put that source in touch with  
17 Kateryna Lysyuchenko, who knowingly helped him prepare an  
18 asylum affidavit understanding the source was actually a  
19 heterosexual male but was seeking asylum based on the false  
20 grounds he was a gay male who was persecuted and viciously and  
21 sexually assaulted and physically assaulted in Ukraine with the  
22 understanding that was not true.

23 And Mr. Danskoi put that source in touch with Julia  
24 Greenberg, who during a series of recorded meetings and  
25 conversations was explicitly apprized that the source was not a

1 gay male. She recognized he was not a gay male. She pushed  
2 off his immigration proceedings, among other things, to help  
3 him prepare to further the lie that he was a gay male who had  
4 been persecuted in Ukraine. Among other things, in addition to  
5 coaching that source to lie under oath in a proceeding with  
6 USCIS asylum officer, she also instructed that source to dress  
7 and present himself in ways that in her estimation would make  
8 him more plausibly appear to be a gay male. For example, by  
9 having his -- getting a manicure, having his eyebrows plucked  
10 and instructing him to wear specific articles of clothing that  
11 the source was otherwise not wearing in her presence.

12 So, based on that and an ongoing investigation, which  
13 also, among other things, entails Russian America assisting  
14 individuals to come into the United States -- individuals who  
15 do not qualify for asylum to come into the United States  
16 illegally through Mexico to claim asylum. The government's  
17 investigation is based on, among other things, recorded  
18 conversations between sources and the defendants who are  
19 charged in this case and other uncharged coconspirators and  
20 other individuals who worked with Russian America who may or  
21 may not have been coconspirators, draft transcripts of those  
22 meetings, search warrants of electronic devices and their  
23 contents, searches of devices pursuant to the consent of  
24 certain defendants, reports by the FBI, by the Department of  
25 Homeland Security and USCIS, among other things.

1 I hope that wasn't too many granular for your Honor,  
2 and I am, of course, available to answer additional questions  
3 if you have any other questions about the investigation or the  
4 discovery.

5 THE COURT: Definitely the most detail I've ever  
6 gotten in asking for a summary of the charges.

7 MR. REBOLD: Your Honor, I apologize. I anticipate  
8 that there is going to be a bail application from  
9 Ms. Greenberg, and so I thought it might be helpful to cabin  
10 the factual background into this explanation as well so we  
11 don't run through that again later.

12 THE COURT: Any post arrest statements, Mr. Rebold?

13 MR. REBOLD: My understanding is that there were post  
14 arrest statements by -- to one effect or another by several of  
15 the defendants, and we will, of course, make those available to  
16 the defendants in very short order.

17 THE COURT: In the other discovery that you've  
18 described, the recorded conversations, draft transcripts of  
19 those, those are in translation?

20 MR. REBOLD: Yes. So the recordings are, I believe,  
21 all in Russian. I want to give the caveat that some may be in  
22 Ukrainian, but I believe they are all in Russian, and many of  
23 the translations -- we have already received a number of draft  
24 translations -- some verbatim translations; some summary  
25 translations that are in English. So we will be providing in

1 the next 24 to 48 hours draft translation stipulations to  
2 defense counsel so that we can begin providing the draft  
3 English translations to counsel.

4 THE COURT: What is, to the extent to which you can  
5 estimate, the volume of recorded conversations?

6 MR. REBOLD: Several dozen recorded conversations, but  
7 I don't have ready for your Honor an exact total length or  
8 number of gigabytes, you know, in terms of raw data.

9 THE COURT: But several dozen, so not an insignificant  
10 number, but what it is, several dozen.

11 MR. REBOLD: That is my best estimate, your Honor. It  
12 may be less than that, but I think it's certainly not -- we're  
13 not talking about hundreds or anything like that.

14 THE COURT: OK. And then what's the volume of -- so  
15 you've got search warrants on electronic devices. You have the  
16 returns on the -- you have the material produced from the  
17 warrants?

18 MR. REBOLD: So, in terms of electronic devices, we do  
19 not yet, your Honor, and that is something I wanted to raise  
20 with the Court, and something I've at least floated to defense  
21 counsel that I will sort of bring your Honor up to speed on.

22 So the agents recovered a number of electronic devices  
23 during the arrests in this case. They are on a queue, as I  
24 understand it, to be searched, if the searches haven't been  
25 conducted already, meaning to actually get into the devices to

1 provide a dump of the devices.

2 Where we have search warrants and not consent to  
3 search the devices, as your Honor might imagine, the searches  
4 are going to be somewhat time-consuming for several reasons:

5 First, because I imagine many of these devices contain  
6 large volumes of information;

7 Second, because the vast amount of communications are  
8 in Russian, and therefore need to be reviewed and translated  
9 before they can be looked at for a relevant review, and  
10 importantly in this case, because the case involved attorneys  
11 and the nature of the charges involved applications and  
12 testimony before immigration officials, including officers and  
13 judges, they need to be reviewed with a taint team for  
14 attorney-client privilege.

15 What we have floated informally, and in the last week  
16 or so to defense counsel -- and I understand they may need some  
17 time to confer amongst themselves -- is if the attorneys are  
18 willing to agree to consent to have us produce the full dumps  
19 of those devices to all of the other attorneys, that would  
20 obviously drastically speed up the production of each of these  
21 electronic devices. If not, we will, of course, push things  
22 out on a rolling basis as we're able to review for privilege  
23 and relevance, but it may be a bit more time-consuming, your  
24 Honor.

25 THE COURT: All right. So that conferral process is

1 ongoing, and you will let me know if you run into issues, but  
2 time-consuming in either way, it sounds like.

3 MR. REBOLD: Yes, your Honor.

4 THE COURT: And then you said reports by FBI and DHS.  
5 What do you mean by reports, and what's the volume there?

6 MR. REBOLD: So, I mean, the reporting would include  
7 just, you know, FBI 302s, DHS reports regarding one of the  
8 confidential sources was a homeland security source, so much of  
9 the reporting is sort of the standard, you know, FBI and DHS  
10 investigative reporting that to the extent it's discoverable or  
11 that we decide to turn it over even if it's not discoverable  
12 can be turned around relatively quickly, but there is a  
13 subcategory of discovery that I think is going to take a  
14 considerably greater amount of time and that may be produced on  
15 an ongoing basis, and that involves the USCIS files in its  
16 possession that it can attribute to either Russian America or  
17 any of the individual defendants as preparers of -- meaning  
18 every client that Russian America has for whom they've prepared  
19 an I-589 application, we are trying to track down. Sometimes  
20 it's easy to do that, sometimes it's less easy to do that  
21 depending on, for example, Russian officials signed their names  
22 as the preparers, which they sometimes did, or didn't sign  
23 their names as the Russian preparers, which they often did not.

24 Then there is a separate agent of cases where, for  
25 example, Julia Greenberg may have represented clients either



1 for Russian America or otherwise. We are attempting and we are  
2 making our best effort to identify, collect, scan and  
3 ultimately produce all of those files to defense counsel so  
4 that they have everything, even if they're not necessarily  
5 files that we have detected at this stage as fraudulent, but  
6 that is a time-consuming process, and I unfortunately don't  
7 have a time horizon for your Honor, but I can say that it has  
8 been hampered in large -- at least in part due to the  
9 Coronavirus pandemic and the inability of staff to get their  
10 hands on physical files and begin reviewing them.

11 THE COURT: Anything else, Mr. Rebold, to flag in  
12 terms of anticipated discovery?

13 MR. REBOLD: No. Just to say that notwithstanding the  
14 caveats I've provided about the USCIS files and the electronic  
15 devices, number one, we will of course work with defense  
16 counsel so that we can push out discovery on a rolling basis  
17 and provide them with the things that we anticipate would be of  
18 most interest to them in terms of suppression motions and  
19 direct evidence of the crimes or anything else defense counsel  
20 flags for us that they think is of interest to them, but to  
21 include search warrants, affidavits and the recordings and  
22 draft transcripts that they formed the basis of the  
23 investigation. My hope is that the bulk of discovery can be  
24 provided in the next six weeks but for the USCIS files and the  
25 devices where the searches are ongoing.

1           THE COURT: All right. And, again, you are talking  
2 about any application related or unrelated to the case that you  
3 can identify as being submitted by Russian America. Is that  
4 right?

5           MR. REBOLD: Yes, or in which we have been able to  
6 identify Julia Greenberg as representing a client. We're doing  
7 our level best to try to locate those and gather those and scan  
8 those and get those pushed out.

9           THE COURT: OK. So, from the communications to  
10 chambers in advance with counsel cc'd and based on what you  
11 just said, Mr. Rebold, the discovery that you've described  
12 within the next, let's say, two months with some ongoing  
13 discovery related to search warrant returns and the USCIS  
14 files.

15          MR. REBOLD: Yes, your Honor.

16          THE COURT: And then, counsel, you've -- so the next  
17 question is what's a realistic time frame for a motion schedule  
18 based on the quantity and quality of discovery that Mr. Rebold  
19 just described. And I know, Mr. Kaser, I know you have an  
20 objection to the proposed trial date but let me deal with  
21 motions first.

22          MR. KASER: That's fine.

23          THE COURT: So it's been proposed that any available  
24 defense motions, either based on the indictment or Rule 16 as a  
25 result of Rule 16 discovery, would be filed on or before

1 July 15, 2021.

2 Mr. Kaser, do you have an objection to that time  
3 frame?

4 MR. KASER: No, I actually don't. The motion schedule  
5 that's been circulated I'm fine with. It's the trial date that  
6 I will have an objection to.

7 THE COURT: OK. Mr. Glozman, you're fine as well?

8 MR. GLOZMAN: Yes, your Honor.

9 THE COURT: Mr. Sharifov?

10 MR. SHARIFOV: Yes, I am fine with that as well,  
11 Judge.

12 THE COURT: We will set that as our motions date. Any  
13 available defense motions as I described on or before July 15,  
14 2021. If any motions are filed, government's opposition due  
15 August 12, 2021. And defense reply on or before August 26,  
16 2021.

17 What I do in my general practice is once the motions  
18 come in, I look to see if any motions are filed and if any  
19 motions are seeking an evidentiary hearing. If any motions are  
20 seeking evidentiary hearing, my chambers will reach out and  
21 schedule a hearing to occur shortly after full briefing of the  
22 anticipated motions. That way we've got a hearing on the  
23 schedule should we need it for resolution of the motions.

24 If no motions are filed or once motions are resolved,  
25 I then put the case on the remainder of a schedule to get us to

1 trial date. So that will be a date for in limine motions,  
2 404(b) motions, proposed jury instructions and proposed voir  
3 dire. I know that you've discussed this and generally actually  
4 what you suggest is absolutely fine. Five weeks before trial  
5 motions in limine and responses to those, and proposed jury  
6 instructions and voir dire three weeks before trial. That will  
7 be fine. I will set that final schedule once we get past  
8 initial motions.

9 All right. So, Mr. Rebold, if we do proceed to trial  
10 with all four of the defendants, how long of a trial do you  
11 anticipate?

12 MR. REBOLD: I would think around, I would imagine,  
13 this is a two to three week trial, your Honor, but I would just  
14 caution that our investigation is ongoing, and I anticipate  
15 that we are going to be identifying additional individuals  
16 whose applications for asylum and legal status in this country  
17 were presented -- prepared by Russian America under fraudulent  
18 pretenses, and so that time frame can expand a little bit  
19 depending on what we uncover in the coming months.

20 THE COURT: So as you sit here, do you anticipate a  
21 superseding indictment?

22 MR. REBOLD: I think it is more likely than not that  
23 there will be a superseding indictment. If this case goes to  
24 trial, I anticipate there will likely be a superseding  
25 indictment that may either add charges or expand the conspiracy

1 period, yes, your Honor.

2 THE COURT: And what is the anticipated time frame for  
3 any such superseding indictment?

4 MR. REBOLD: Well, I hazard to guess at that, your  
5 Honor, just because, for example, based on just the release of  
6 the indictment alone, we are first receiving information from  
7 folks who have sort of worked with Russian America. I don't  
8 know yet. This sort of falls under the category of we don't  
9 quite know what we don't know yet. So, without getting into  
10 the particulars of the ongoing investigation, I hazard to guess  
11 how long it will take and how many folks may come forward that  
12 causes us to sort of change the landscape of what the  
13 indictment looks like or the length of the trial. Although I  
14 don't imagine it's going to, you know, cause the trial to last  
15 more than an extra week or so. At some point if it becomes  
16 cumulative, it seems more an issue of sentencing than proof at  
17 trial; we wouldn't necessarily call any such witness.

18 THE COURT: I will check back in down the road on  
19 timing of a superseding indictment, so we can try to make sure  
20 that the defendants know what they're looking at in advance of  
21 trial. And if a superseding indictment changes in any  
22 substantial way what the defendants are dealing with, then  
23 we'll go to trial on the earlier indictment and save the  
24 superseder for down the road if need be, but I just want to  
25 encourage the government if it plans to move on a superseding

1 indictment to do so expeditiously.

2 MR. REBOLD: Yes, your Honor. Understood.

3 THE COURT: All right. So we have our motion  
4 schedule, and you have a basic sense of how I intend to  
5 proceed.

6 My general practice before COVID has always been to  
7 set -- especially in a multi-defendant case -- set a trial date  
8 at the initial conference, and that is in my experience the  
9 best way to ensure that we get to trial as soon as feasible  
10 given the multiple calendars in issue, the scope of the case,  
11 what needs to be done both by counsel and by the Court in  
12 advance of trial. So that is my practice.

13 Obviously, in the time of COVID, the Southern District  
14 has just resumed jury trials. I believe we've had one criminal  
15 jury trial last week and this week since resuming following the  
16 post-holiday spike, and as a result, the court is still using a  
17 centralized scheduling system for jury trials, which means that  
18 when I select a trial date, in the old days I would say that  
19 absolutely will be the trial date, put it in your calendar, do  
20 what you need to do to be ready to proceed to trial, I'm not  
21 going to move the trial date.

22 I am still going to tell you that now, but with the  
23 caveat that if we are still dealing with the centralized  
24 scheduling system, I have to put in the request when I can and  
25 see what we get. A three-week trial is -- you know, there

1 haven't been any yet in a year, let's put it that way.

2 I know that everybody, except counsel for  
3 Ms. Greenberg, has discussed a trial date after June 13, 2022.  
4 Do I have that right, Mr. Rebold?

5 MR. REBOLD: Yes, your Honor.

6 THE COURT: And Mr. Glozman, that's acceptable to you?

7 MR. GLOZMAN: Yes, your Honor. Based on my personal  
8 backlog of jury trials for in-custody defendants that have to  
9 be reset in the next few weeks and the nature of the ongoing  
10 investigation, the discovery that's going to be coming in, I  
11 think that's the most prudent and practical date to set it.

12 THE COURT: Mr. Sharifov?

13 MR. SHARIFOV: That's correct, your Honor.

14 THE COURT: Mr. Kaser -- am I saying your name right,  
15 Mr. Kaser?

16 MR. KASER: It's actually Kaser, but that's OK.

17 THE COURT: I had two options, and I chose the wrong  
18 one. I apologize.

19 MR. KASER: I am used to it. Don't worry.

20 So, I understand everyone's position. Normally I  
21 would take the position of, you know, push it out, don't want  
22 to speed up. I know can speak about my client's speedy trial  
23 rights, due process, etc. but what this really boils down to is  
24 an anticipation by the government in a bail application to  
25 restrict my client's ability to work. And if her ability to

1 work is going to be restricted in any way, I can't -- she will  
2 not consent, and I can't agree to a trial date that is over a  
3 year away. I don't know -- if I need to make a bail  
4 application now, much of the arguments will be the same. My  
5 hopes were that we had figured out the bail and whether your  
6 Honor is going to restrict my client's employment before  
7 deciding this, because, again, if her employment is not  
8 restricted, we have less of a concern with a lengthy date  
9 before trial. However, if her employment is restricted which  
10 could make her unemployable, which according to pretrial is one  
11 of the conditions of her release, we cannot let this drag out  
12 for over a year. I understand the pandemic and scheduling and  
13 everything like that, but again, my client has family to  
14 support, a mortgage to pay, and she cannot afford to not be out  
15 of work essentially for over a year while this case is pending.

16 THE COURT: OK. I understand those arguments, and I  
17 think you're right that those are bail arguments, and I  
18 understand how the two are intertwined. Realistically, this  
19 case will not go to trial before a year's time based on the  
20 quantity of discovery that's just been described, the  
21 translation issues related to it, the schedule of all of the  
22 participants and, frankly, the Court's schedule and backlog of  
23 trials that have been pending far longer than this one. I have  
24 many defendants incarcerated who will need to be tried first.

25 Now, I will hold -- you know, we can always find other



1 judges to try cases, I will try two cases at once, I will do  
2 whatever it takes; but realistically, based on the scope of  
3 factors that have been described, I mean, even if there weren't  
4 a backlog, I don't see this case going to trial earlier than a  
5 year, given the number of defendants, the scope and nature of  
6 the discovery and the schedules of counsel.

7           Throw into that the coordinating scheduling process  
8 that the district is using now in light of COVID, and including  
9 in that COVID generally slows processes down including issues  
10 related to defendants being able to review discovery with  
11 counsel and safety issues related to that. It's just in the  
12 realistic.

13           I believe in fixing realistic trial dates and sticking  
14 to them with the caveat that there is only so much in my  
15 control right now, but I will accept the date agreed to by the  
16 others because I think that that is the amount of time that's  
17 needed here under the circumstances. So, trial will commence  
18 on June 13, 2022. I will put it on my calendar for three weeks  
19 at that time if we are proceeding to trial, and, obviously,  
20 Mr. Rebold, if more time is needed because of a superseding  
21 indictment, we will need to address that sooner rather than  
22 later so that I can reserve that time on my calendar. But it  
23 is the Court's assessment based on what I've heard that that is  
24 as soon as we can get the trial under the circumstances.

25           All right. As I say, if we are back in a normal

1 circumstance where this is going to take place in my own  
2 courtroom and I control the schedule, I guarantee we will start  
3 on that date. If we are still in a centralized scheduling  
4 system, as soon as I'm able to request a jury for that time, I  
5 will do so, and I will let counsel know as soon as I have any  
6 further information.

7 Let me also say because of my practice for setting a  
8 hearing date, should any motions necessitate the hearing date,  
9 I don't always schedule a status conference at this point. If  
10 anybody wants a status conference, I'm happy to schedule one.  
11 If you want to schedule now, and you just want to request one  
12 down the road, we can get one on the calendar quickly, and I'm  
13 happy to bring everyone in should we need it, but I don't see a  
14 need for status conference at this point given the schedule  
15 that we have. I will bring you in for a hearing if any of the  
16 motions necessitate it.

17 With that, Mr. Rebold, does the government have an  
18 application for an exclusion of time?

19 MR. REBOLD: We do, your Honor. The government  
20 respectfully requests that the Court exclude all speedy trial  
21 time between today and the scheduled date of trial, among other  
22 things, in the interest of justice so that the government can  
23 produce discovery, the parties can review discovery, can  
24 contemplate filing motions and can negotiate a disposition that  
25 the defendants may be favorable to what they would potentially

1 face after trial.

2 THE COURT: Mr. Glozman, any objection?

3 MR. GLOZMAN: No objection on behalf Mr. Mosha.

4 THE COURT: Mr. Sharifov?

5 MR. SHARIFOV: No objection on behalf of Mr. Danskoi,  
6 your Honor.

7 THE COURT: Mr. Kaser, I assume you do have an  
8 objection?

9 MR. KASER: Unfortunately, Judge, no -- I completely  
10 understand everyone's position, but I have to object given I  
11 don't know what's going to transpire in the next couple of  
12 minutes.

13 THE COURT: I understand your position. You don't  
14 need to apologize for making an objection.

15 Nevertheless, I do find that the ends of justice  
16 served by granting an exclusion from speedy trial computations  
17 for the period from today's date through June 13, 2022 outweigh  
18 the interests of the public and the defendants in a speedy  
19 trial. The time is necessary for the production of voluminous  
20 discovery, review of that discovery by the defendants, time for  
21 the defendants to consider and prepare any available motions,  
22 and time for the parties to negotiate potentially resolutions  
23 of the case. In the absence of that, time for the parties to  
24 prepare for trial.

25 With that, I think -- I know obviously, Mr. Kaser, on

1     behalf of Ms. Greenberg, we need to talk about what the bond is  
2     going to look like.

3             Mr. Turano -- I think with that, we can end with  
4     Mr. Glozman and Mr. Sharifov on behalf of Mr. Mosha and  
5     Mr. Danskoi.

6             Mr. Rebold, do you agree that we are finished with  
7     them?

8             MR. REBOLD: Yes, your Honor.

9             And am I correct that Mr. Kmit still needs to follow  
10    or is he part of this proceeding?

11            THE COURT: I do need to address Mr. Kmit separately,  
12    but I do think I can let other two defendants and counsel go.

13            Mr. Glozman, do you have anything further?

14            MR. GLOZMAN: Not today, your Honor.

15            THE COURT: Mr. Sharifov?

16            MR. SHARIFOV: Not at this time, your Honor. Thank  
17    you.

18            THE COURT: All right. So, I will say good-bye to  
19    counsel for Mr. Mosha, Mr. Danskoi, and their counsel. You may  
20    leave the proceeding at this time if you like. You could also  
21    stay. It's up to you. But you're free to go.

22            Mr. Turano, do we have Mr. Kmit now?

23            MR. TURANO: Your Honor, I'm going to ask the  
24    interpreter. I don't know the answer to that. I know he has  
25    been listening, but from what I can glean, he can listen in

1 English, but he can't seem to connect with the interpreter but  
2 maybe that's changed.

3 THE COURT: For our interpreter, have you been able to  
4 communicate with Mr. Kmit.

5 THE INTERPRETER: This is the interpreter, Yana  
6 Agoureev. No. Mr. Kmit not access the interpretation line.

7 MR. TURANO: I think as to that line, he wasn't able  
8 to speak. He could listen only, which made it meaningless, but  
9 he has been on. And he says both numbers he tries are English  
10 only, no translator.

11 THE COURT: Here is what we are going to do: I am  
12 going to proceed with the bail hearing, Mr. Turano, and maybe  
13 we can try to reschedule for this afternoon. And my deputy  
14 once we're done can call and work with you and make sure you  
15 have what Mr. Kmit will need. I think that makes the most  
16 sense.

17 I also have another -- my deputy tells me that  
18 Mr. Kmit had the wrong number. Can I ask the interpreter to  
19 state now -- well, I don't want to do that orally on the public  
20 line. Mr. Turano, we will work with you and Mr. Kmit  
21 separately, and we will do the arraignment and set the case on  
22 the same schedule this afternoon. It won't take long, but I do  
23 need to make sure I am communicating directly with Mr. Kmit.

24 MR. TURANO: Very well, your Honor.

25 THE COURT: Thank you. You may leave if you like.

1           Go ahead, Mr. Kaser.

2           MR. KASER: OK. So my client, you know, she was  
3 originally bonded out in Colorado. She has had pretrial  
4 services interview her. They have submitted, I believe, a  
5 report to the Court. They have certain recommendations which  
6 are less onerous -- that she is already on in Colorado. I  
7 wanted to address removal of the GPS ankle monitor. I tried to  
8 do that with the government. They countered, but then they  
9 included a preclusion for my client to be able to practice  
10 certain areas of law, which unfortunately is basically the sole  
11 area that she practices in.

12           Again, I would oppose this. There is a presumption of  
13 innocence. She is the sole bread winner for her family, which  
14 includes her husband, her three children, her elderly mother.  
15 She owns property in Staten Island, so she has bills to pay.  
16 Her primary practice is immigration law, and if she is going to  
17 be precluded from practicing immigration law between now and  
18 the trial, that is well over year that she will not be able to  
19 practice. I'm not sure how easy it is for her to jump into  
20 other areas of law. I don't think it makes sense for her to  
21 take a minimum wage job just to work. She won't be able to  
22 afford the support that she needs for the people in her life,  
23 her family members.

24           So we are asking -- I would ask that she be continued  
25 on bond with the recommendations from pretrial services and

1 that there be no be restrictions on her ability to work.

2 I can go through those specific items with pretrial,  
3 if your Honor would like.

4 THE COURT: Let me turn to Mr. Rebold.

5 Mr. Rebold, what are the specific provisions that are  
6 in issue? Let me pull up the pretrial services report.

7 Go ahead, Mr. Rebold.

8 MR. REBOLD: Yes, your Honor. So, there are a few  
9 things in issue. Well, pretrial appears to be recommending a  
10 continued submission to location monitoring, but that is  
11 certainly something we join in.

12 We are recommending that three cosigners be added to  
13 the terms of the bond, that are persons that are both  
14 financially responsible and persons of moral suasion. And in  
15 light of the defendant's means, we are asking that the bond  
16 amount be increased from \$100,000 to \$300,000. And Mr. Kaser  
17 is correct that we are respectfully requesting that the  
18 defendant be ordered to not perform immigration services or  
19 practice immigration law during the pendency of the case.

20 If I might, your Honor, I can explain why we're asking  
21 for this.

22 THE COURT: OK. Go ahead.

23 MR. REBOLD: Your Honor, I've laid out the background  
24 of the case and established, I hope at least in some part, both  
25 its seriousness and the strength of the evidence, particularly

1 relating to Ms. Greenberg; but in addition to being depicted in  
2 explicit recordings with sources, my understanding from  
3 conferring with the agents who conducted her arrest, she gave a  
4 confession to knowingly assisting both of the sources in this  
5 case commit asylum fraud by preparing them for and accompanying  
6 them into their asylum interviews.

7 I should note specifically regarding the request that  
8 she not practice law, that if she is convicted, she will be  
9 disbarred. And so while I understand that we are not at a  
10 guilty verdict at this stage, it is a consideration that  
11 Ms. Greenberg may need to seek other employment in the long  
12 term generally.

13 So, in addition to this being a strong and serious  
14 case, there are concerns about Ms. Greenberg continuing to  
15 conduct immigration services and representation. First,  
16 because we understand that she may be continuing to represent  
17 people who have been committing asylum fraud. The nature of  
18 the charge is asylum fraud. The nature of her work is to  
19 accompany clients into interviews conducted by USCIS and  
20 represent them during proceedings by immigration judges.

21 The government respectfully submits that asking her to  
22 not practice immigration law for the pendency of these  
23 proceedings would be akin to a person who is being charged as a  
24 corrupt bank manager being instructed not to work in the  
25 financial services industry during the pendency of his case.



1 It seems, respectfully, to be a relatively straightforward  
2 issue. We are not submitting that she shouldn't be able to  
3 practice law at all. We are not submitting that she not be  
4 permitted to work at all. We are not submitting that she be  
5 restricted to home detention or home confinement. We are  
6 simply asking that the Court not have her practice immigration  
7 law.

8 In addition to sort of the potential danger she poses  
9 sort of in continuing to potentially represent clients in this  
10 way, there are other serious Fifth and Sixth Amendment  
11 considerations that I think need to be taken into account here,  
12 and I can give an example, your Honor.

13 I learned, and upon learning this, I immediately  
14 reached out to Mr. Kaser to apprise him of this. I felt at the  
15 time that as a professional courtesy to help avoid this from  
16 happening moving forward, but I learned that subsequent to  
17 Ms. Greenberg's arrest and indictment, she accompanied another  
18 client into a USCIS asylum interview. During the interview, my  
19 understanding -- and I received this third or fourth-hand at  
20 least -- but during the interview, my understanding is that the  
21 asylum officer asked a question that is not atypical of an  
22 asylum interview generally, although certainly would be  
23 understandable in the instance case, which is where the asylum  
24 client -- how the asylum client came to retain their attorney.  
25 My understanding is at that point Ms. Greenberg jumped in. She

1 requested to speak to a supervisor. She made inculpatory  
2 statements about the instant investigation and the charges, and  
3 claims that this was sort of part of a witch hunt.

4 The USCIS's job when they conduct these interviews of  
5 asylum applicants is to try to detect if and when people are  
6 seeking asylum under fraudulent pretenses to assess whether  
7 these are legitimate applications, and it is their job to ask  
8 probing questions of that nature to the applicants who are  
9 seeking asylum.

10 I can't -- most of those USCIS -- in fact, all of  
11 those USCIS asylum officers at the ground level, they're not  
12 part of the prosecution team. They're doing their job  
13 conducting interviews to assess for fraud and other things.  
14 So, we can't ask them or instruct them not to ask the probing  
15 questions that they're supposed to ask, and we can't preclude  
16 Ms. Greenberg from jumping in and making statements that can  
17 potentially be used against her.

18 There is also a negative inference that can be drawn  
19 on her clients that she is accompanying into these proceedings  
20 just by the fact of her representation at this stage. So there  
21 are a host of issues, your Honor, that I think relate  
22 specifically to her practice of immigration law.

23 And while it's not lost on us that that could present  
24 at least a short term hardship for her, it is simply not  
25 uncommon whether the defendant is a lawyer or a worker at a

1 bank or a worker in any other field who have their bread and  
2 butter practice restrained during pendency of criminal cases  
3 for the obvious reasons that I've laid out, your Honor.

4 THE COURT: Let me just ask because I don't think I've  
5 addressed this issue previously or dealt with it. Do you have  
6 authority -- do you have examples or written opinion authority  
7 that discusses this kind of pretrial restriction?

8 MR. REBOLD: Not in hand, your Honor, but I can tell  
9 you that I've had many cases -- and this is my first  
10 immigration fraud case, with the exception of another case  
11 where the arrests were made on the same day in a related  
12 investigation where the attorneys both agreed, consented to not  
13 practice immigration law, and that would be the case of the  
14 United States v. Ilona Dzhamgarova, 21 CR 58, before the  
15 Honorable Mary Kay Vyskocil. I have not researched the issue,  
16 but I can say it is common practice to have certain forms of  
17 vocation be restricted by pretrial services as part of  
18 individual bail packages. Frankly, whenever anybody is  
19 subjected to home incarceration, for example, they're  
20 restricted from working at all.

21 THE COURT: Well, that's not necessarily true either.  
22 Sometimes there are exceptions for employment and sometimes  
23 remote work of some kind is possible, so I don't know that it  
24 follows necessarily from home incarceration that employment is  
25 ceased.

1           MR. REBOLD: I think that's a fair point, your Honor,  
2 although -- I highlight it only to say that there are much more  
3 onerous restrictions that courts place on individuals' ability  
4 to maintain employment broadly. We are not asking that the  
5 Court go in with a hacksaw here. We are asking that the Court  
6 go in with a scalpel and carve out -- it's not lost on me this  
7 is the primary area of her vocation at this point, but we're  
8 asking, again, not that she be restricted from practicing law,  
9 but that she be restricted from practicing immigration law and  
10 providing immigration consultation and immigration services due  
11 to the nature of these offenses and due, again, to the ongoing  
12 investigation and questions that are invariably going to come  
13 up during interviews of clients, during asylum officer  
14 hearings, and during immigration proceedings before immigration  
15 judges. I think it's just impossible to sort of extricate the  
16 issues that we've laid out that can come up during any one of  
17 these interviews, even if Ms. Greenberg is willingly availing  
18 herself of those interviews. And to the extent that she is  
19 attempting to stop officers from asking those questions, that  
20 is not benefiting her clients for whom the agents are asking  
21 legitimate questions. And so I know this doesn't answer the  
22 question do I have a case in hand in front of me, but I do  
23 think there is certainly -- it is certainly the case that  
24 individuals' employment or forms of employment are regularly  
25 restricted by courts in this district every single day, your

1 Honor.

2 THE COURT: I mean, I guess that's the question. If a  
3 lawyer is under indictment, which happens certainly  
4 occasionally in the district, probably a couple a year, is it  
5 standard to restrict their ability to practice law in the area  
6 that produced the issue. I could tell I'm going to want some  
7 briefing on this. I want to look and see if there is law on  
8 this.

9 So I can hear you now, Mr. Kaser, or what I would  
10 suggest is everybody do a little bit of short letter briefing  
11 on the issues, see what the examples and authorities are, and  
12 then I will bring you back in for a hearing on it. But I  
13 suspect I'm not going to satisfy myself that I know how I want  
14 to resolve until I've had some opportunity to look at the law  
15 on the issue. Mr. Kaser, any reason?

16 MR. KASER: That's fine, your Honor. The only thing I  
17 was going to point out is Mr. Rebold did mention that in  
18 previous cases pretrial had recommended this, and we are not  
19 getting that recommendation here. But, again, it doesn't sound  
20 like you're going to make a decision without being a little  
21 more briefed, and so maybe that would behoove us all to submit  
22 written briefs.

23 THE COURT: I would like a little briefing on this.  
24 Maybe there's nothing out there, but I suspect at the least the  
25 government may have examples of other cases, and, Mr. Kaser,

1 there may be some law out there suggesting the impermissibility  
2 of the restriction in some circumstances. I just don't know,  
3 and I don't want to make a snap decision without being  
4 informed.

5 Mr. Rebold, do you have any concerns with that  
6 process?

7 MR. REBOLD: No, not at all, your Honor. But just in  
8 the event that I said that pretrial services previously  
9 recommended such a restriction, that is not the case. What I  
10 was hoping and attempting to communicate was that in a  
11 companion case, defense counsel agreed that that was an  
12 appropriate term of the bail package, but pretrial did not in  
13 that case weigh in and, frankly, we did not litigate the  
14 legality. So I just want to make clear that I wasn't  
15 suggesting pretrial weighed in on this issue before.

16 MR. KASER: I may have misheard. I apologize, if  
17 that's the case.

18 THE COURT: Mr. Rebold, what's the government's  
19 request in the meantime and schedule, so that the -- the  
20 current bond is in place, and you're seeking the restriction on  
21 the performance of immigration legal services and counseling,  
22 and increasing the bond to \$300,000 and adding additional  
23 cosigners, right?

24 MR. REBOLD: I am. And I am also opposing the  
25 defendant's request that GPS monitoring be removed. There are

1 some things I would like to raise with the Court regarding  
2 these issues.

3 THE COURT: Here is what I would like to do. I am  
4 actually -- I now apologize, because of the delay, I am ten  
5 minutes late for another proceeding. And since we're going to  
6 do briefing anyway, my suggestion is to just conclude it all,  
7 and I'll get your views and bring you back, hear from you and  
8 give you my conclusion.

9 So, Mr. Rebold, by request or my suggestion is to  
10 continue the current bond and let both sides put in a little  
11 bit of writing, nothing extensive on these issues, and then  
12 I'll bring you back next week. How's that?

13 MR. REBOLD: That's just fine, from the government's  
14 perspective, your Honor.

15 MR. KASER: Next week is extremely busy for me. I  
16 have a trial in the middle of next week also. I don't know if  
17 this is something that can go out the week after or if that's  
18 too much time. I can try to make other arrangements.

19 THE COURT: Mr. Rebold, is that fine?

20 MR. REBOLD: Yes, whenever is workable for Mr. Kaser  
21 and the Court, we'll be available.

22 THE COURT: I have time the week of the 22nd. Why  
23 don't we set it for Tuesday, the 23rd, at 11:00 a.m.?

24 MR. KASER: That works for me.

25 THE COURT: Tuesday, the 23rd at 11:00 a.m. Working

1 from that, Mr. Rebold, you will put in some letter briefing by  
2 how about by Friday, and then Mr. Kaser, by Tuesday -- I guess  
3 the question is whether we need a reply brief or not, otherwise  
4 I can give you more time. My concern on the briefing is just  
5 we've got -- well, you know what the issues are, Mr. Rebold, so  
6 you can address also the defense's address to remove location  
7 monitoring in your opening papers, OK?

8 MR. KASER: Might I make a suggestion if it works for  
9 your Honor to have these papers due maybe the 15th and have  
10 mine due -- I don't want to say the 22nd, that might be too  
11 close to the court date, but I am anticipating by next week not  
12 allowing me to do this in the first two days also.

13 THE COURT: That's fine. There will be no reply in  
14 that instance. It will be the government by the 15th and the  
15 defense by the 22nd.

16 Mr. Rebold, acceptable?

17 MR. REBOLD: Yes, of course, your Honor.

18 THE COURT: And just include your arguments as to why  
19 location monitoring should stay in place in your papers,  
20 Mr. Rebold.

21 MR. REBOLD: We will, your Honor.

22 THE COURT: OK. So we've got a schedule for that.  
23 And I will appreciate any authority either of you can give me  
24 on the issue of the employment restriction. And we'll take it  
25 up then.



1 Anything further, Mr. Rebold?

2 MR. REBOLD: No, not from the government, your Honor.

3 THE COURT: Mr. Kaser?

4 MR. REBOLD: Oh, your Honor? I'm sorry to jump in. I  
5 know this is -- I'm mentioning it because I know it's sometimes  
6 after presentments, so just in case this is a follow-up thing  
7 that the Court would have otherwise asked. The defendant was  
8 arrested on February 18 just after 6:00 a.m. mountain standard  
9 time in the vicinity of Breckenridge, Colorado.

10 THE COURT: OK. Thank you. Anything else,  
11 Mr. Rebold?

12 MR. REBOLD: No, your Honor.

13 THE COURT: Mr. Kaser?

14 MR. KASER: Nothing else, your Honor.

15 THE COURT: Everybody stay safe. We're adjourned.  
16 I'll see you in a few weeks.

17 (Adjourned)

18

19

20

21

22

23

24

25